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Message Text

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21
ACTION SS-20

INFO OCT-01 EA-11 EB-11 ISO-00 L-03 CAB-09 CIAE-00 COME-00

DODE-00 DOTE-00 INR-11 NSAE-00 RSC-01 FAA-00 NSC-07

PA-04 PRS-01 NSCE-00 SSO-00 USIE-00 INRE-00 DRC-01

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O 070623Z AUG 74
FM AMEMBASSY MANILA
TO SECSTATE WASHDC IMMEDIATE 5843

C O N F I D E N T I A L MANILA 9412

DELIVER OPENING OF BUSINESS TO DEPUTY SECRETARY

FOR DEPUTY SECRETARY INGERSOLL FROM SULLIVAN

E.O. 11652: GDS
TAGS: EAIR, RP
SUBJECT: CIVAIR - BILATERAL NEGOTIATIONS

REFS: A. STATE 170102
B. MANILA 9332
C. STATE 171296

1. DURING PAST TWO WEEKS, THIS EMBASSY HAS BEEN ATTEMPTING WORK OUT INTERIM CIVIL AVIATION ARRANGEMENT WITH PHILIPPINES WHICH WOULD GOVERN OPERATION OF WIDE-BODIED AIRCRAFT ON TRANS-PACIFIC ROUTE PENDING MORE DEFINITIVE NEGOTIATIONS IN WASHINGTON. THESE EFFORTS FOLLOWED UPON FAILURE OF EARLIER NEGOTIATIONS WHICH WASHINGTON-BASED TEAM HELD IN MANILA JUNE 9-20.

2. AFTER MUCH HEARTBURN, INCLUDING TEMPORARY IMPOUNDING OF A PHILIPPINE DC-10 BY USCAB, WE HAVE REACHED AGREEMENT WHICH I CONSIDER SATISFACTORY AND EQUITABLE. I HAVE DISCUSSED ITS SINGLE CONTENTIOUS FEATURE IN REF BM
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3. HOWEVER, I HAVE BEEN AUTHORIZED TO SIGN THIS AGREEMENT ONLY IF EXCHANGE OF NOTES IS ACCOMPANIED BY TABLING OF AIDE-MEMOIRE WHICH GOES BEYOND WHAT HAS ACTUALLY BEEN AGREED IN THE NEGOTIATIONS (REF A). TO HAVE COMPLIED WITH THIS INSTRUCTION WOULD HAVE BEEN CONSTRUED BY FILIPINOS AS ACT OF BAD FAITH AND WOULD PREDICTABLY HAVE PRECIPITATED POLITICAL PROBLEMS WELL BEYOND THE SCOPE OF THE ISSUE INVOLVED. I THEREFORE INFORMED DEPARTMENT I WOULD NOT PERMIT THIS EMBASSY TO BE PARTY TO SUCH SHARP PRACTICES AND SUBMITTED REDRAFT OF AIDE-MEMOIRE WHICH HONESTLY REFLECTED THE FACTS AND WHICH I PROPOSED TO SUBMIT AUGUST 7.

4. TO MY ASTONISHMENT, I RECEIVED NEW INSTRUCTIONS (REF C) WHICH REJECTED MY PROPOSED REDRAFT AND GAVE ME NEW LANGUAGE WHICH WAS NO RPT NO BETTER THAN ORIGINAL. MY ASTONISHMENT WAS COMPOUNDED BECAUSE THIS INSTRUCTION WAS PREMISED ON MISSTATEMENT OF FACT WHEN IT ALLEGED THAT PHILIPPINES HAD THREATENED "CANCELLATION" OF FLYING TIGER CARGO PERMIT. IN POINT OF FACT, WE HAD EXPLICIT AGREEMENT THAT FTL PERMIT WOULD NOT RPT NOT BE CANCELLED, AND THAT QUESTION OF ITS RENEWAL AFTER OCTOBER WOULD BE SUBJECT TO BE INCLUDED IN DEFINITIVE NEGOTIATIONS TO BE HELD IN WASHINGTON WITHIN NINETY DAYS.

5. SINCE IT WAS CLEAR THAT WE WERE HEADING FOR SERIOUS IMPASSE, I DECIDED TO RAISE THIS QUESTION WHEN I WAS WITH PRESIDENT MARCOS MORNING AUGUST 7 ON OTHER BUSINESS. I GAVE HIM CANDID DESCRIPTION OF CURRENT SITUATION, INCLUDING DETAILED LANGUAGE OF AIDE-MEMOIRE WHICH I HAD BEEN INSTRUCTED TO TABLE.

6M AFTER SOME DISCUSSION, MARCOS SAID THAT AIDE-MEMOIRE WOULD CAUSE MAJOR TURMOIL IN HIS BUREAUCRACY AND UPSET NEGOTIATIONS INTERMINABLY. THEREFORE, HE ASKED THAT I REFRAIN FROM TABLING AIDE-MEMOIRE, BUT THAT I RELAY TO WASHINGTON HIS ORAL ASSURANCES THAT FLYING TIGER WOULD BE PERMITTED TO CONTINUE ITS CARGO ROUTE BEYOND THE EXPIRATION OF ITS PERMIT IN OCTOBER UNTIL THE MATTER CAN BE RESOLVED BETWEEN OUR TWO GOVERNMENTS. HE THEN CALLED IN THE EXECUTIVE SECRETARY AND INSTRUCTED HIM TO INFORM THE CONFIDENTIAL

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PHILIPPINE CAB OF HIS DECISION.

7. SINCE THESE PRESIDENTIAL ASSURANCES ARE ACTUALLY MORE BINDING THAN THE UNILATERAL STATEMENT WHICH WASHINGTON PROPOSED, AND SINCE I AHVE ORALLY CONVEYED SUBSTANCE OF SECOND PARAGRAPH OF AIDE-MEMOIRE CONCERNING CAB PENALTIES AGAINST PAL BOTH TO PRESIDENT MARCOS AND SECRETARY ROMULO, I SEE NO RPT NO FURTHER NEED FOR "UNILATERAL STATEMENT" IN

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FORM AIDE-MEMOIRE. TO INSIST UPON PLACING THE PRESIDENT'S ASSURANCES IN WRITING WOULD BE AN EGREGIOUS INSULT OF UNACCEPTABLE MAGNITUDE.

8. THEREFORE, I INTEND TO SIGN THE EXCHANGE OF NOTES ON MORNING AUGUST 8. I AM ENGAGING YOU PERSONALLY IN THIS MATTER BECAUSE I FEEL YOU SHOULD KNOW MY STRONG SENSE OF DISAPPOINTMENT WITH THE MANNER IN WHICH DEPARTMENT HAS HANDLED THIS TRANSACTION AND BECAUSE I INTEND TO WRITE YOU A LETTER ON THIS WHOLE SUBJECT OF CIVIL AIR NEGOTIATIONS. I ALSO WISH TO BE CERTAIN THAT SOMEONE AT THE POLICY LEVEL WILL BE SURE THAT DEPARTMENT ACTUALLY DOES INTERCEDE WITH CAB AS I HAVE ORALLY ASSURED THE PRESIDENT. THIS WHOLE MATTER HAS REACHED PROPORTIONS WHICH IT SHOLD NEVER HAVE ATTAINED IN RESPECT TO OUR LARGER PLOLICY INTERESTS IN THE PHILIPPINES.
SULLIVAN

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AIR CARGO, PERSONAL OPINION, AIRCRAFT DETENTION, AVIATION AGREEMENTS, NEGOTIATIONS, DIPLOMATIC NOTES, AIDE MEMOIRE, FOREIGN POLICY POSITION, AIR RO UTES, LICENSES
Control Number: n/a
Copy: SINGLE
Draft Date: 07 AUG 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: cunninfx
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974MANILA09412
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D740215-0448
From: MANILA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740868/aaaacfxu.tel
Line Count: 132
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION SS
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: A. STATE 170102
Review Action: RELEASED, APPROVED
Review Authority: cunninfx
Review Comment: n/a
Review Content Flags:
Review Date: 08 AUG 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <08-Aug-2002 by worrelsw>; APPROVED <24 FEB 2003 by cunninfx>
Review Markings:

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US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: CIVAIR - BILATERAL NEGOTIATIONS
TAGS: EAIR, RP, US, PAL, FLYING TIGER AIRLINES
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

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